

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed January 21, 2010. Through this response, claims 1, 11, 25, 26, and 36 have been amended, claim 7 canceled without prejudice, waiver, or disclaimer, and claim 59 comprising the substance of now canceled claim 7. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Objections

Claim 7 has been objected to due to various informalities. Applicants have canceled claim 7, and included in newly added claim 59. Accordingly, Applicants respectfully requests that the objection be withdrawn.

II. Claim Rejections - 35 U.S.C. § 103(a)

A. Statement of the Rejection

1. Claims 1-3, 5, 7-12, 14-17, 20-24, 26-28, 30-37, 39-40, 43-48, 53-56, and 58 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *Bruck* (U.S. Patent No. 6,008,836) in view of *ATI* (ATI Multimedia center 7.9, User's Guide, Copyright (c) 2002, ATI Technologies Inc.).

2. Claims 4 and 29 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *Bruck* in view of *ATI* and in further view of *Krane* (U.S. Patent No. 5,799,063).

3. Claims 13, 18, 19 and 38 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *Bruck* in view of *ATI*, in further view of *Elswick et al.* ("Elswick," U.S. Patent No. 6,791,620) and in further view of *May* (U.S. Patent No. 5,544,354).

4. Claim 57 has been rejected under 35 U.S.C. 103(a) as allegedly unpatentable

over *Bruck* in view of *ATI* and in further view of *Elswick*.

5. Claim 25 has been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *ATI* in view of *Rzeszewski et al.* ("*Rzeszewski*," U.S. Patent No. 5,512,958).

6. Claim 41 has been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *Bruck* in view of *ATI* and in further view of *Rzeszewski*.

Applicants respectfully traverse these rejections to the extent not rendered moot by amendment.

B. Discussion of the Rejection

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquires, also expressed in MPEP 2100-116, are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

1. Claims 1-3, 5, 7-12, 14-17, 20-24, 26-28, 30-37, 39-40, 43-48, 53-56, and 58 - 35 U.S.C. 103(a) - *Bruck* in view of *ATI*.

Independent Claim 1

Claim 1 recites (with emphasis added):

1. A method for determining the characteristics of a display device coupled to a network client device capable of receiving television (TV) signals, the network client device having video and audio output capabilities, said method comprising the steps of:

driving a display device with a first video output signal formatted according to a first video interface specification;

responsive to driving the display device, explicitly querying a user, the query configured to solicit a response from the user that corresponds to whether the user can presently observe information rendered on the display device, the information included in the first video output signal;

determining a characteristic of the display device responsive to determining that the user can presently observe the information, the determination based on user input corresponding to the solicited response; and

driving the display device with a second video output signal and repeating the explicit query to the user responsive to determining that the user cannot presently observe the information.

Applicants respectfully submit that independent claim 1 is allowable over *Bruck* in view of *ATI* for at least the reason that *Bruck* fails to disclose, teach, or suggest at least the above emphasized claim features. The non-final Office action (page 3) alleges that an “explicit query” is found in Figure 6B of *Bruck*. Applicants respectfully disagree. Figure 6B of *Bruck* is reproduced below:

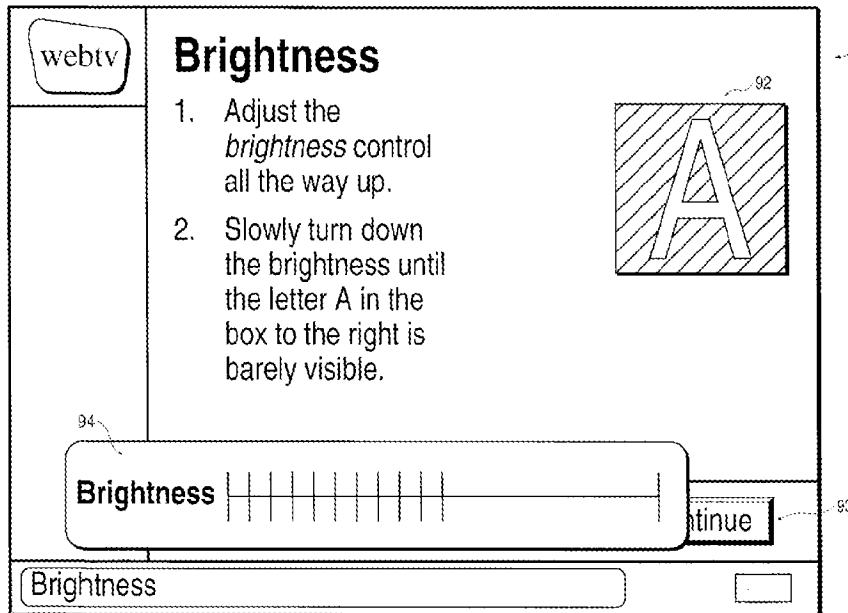


FIG. 6B

Clearly from the reproduction of Figure 6B (*Bruck*) above, there is no explicit query. *ATI* likewise does not disclose such a query as claimed. Accordingly, Applicants respectfully submit that *Bruck* in view of *ATI* fails to disclose, teach, or suggest the corresponding claimed feature emphasized above and respectfully request that the rejection be withdrawn.

Further, the claimed features of ***driving the display device with a second video output signal and repeating the explicit query to the user responsive to determining that the user cannot presently observe the information*** are also not met by *Bruck* in view of *ATI*. For instance, the non-final Office Action (page 3) alleges that *Bruck* teaches “repeating the explicit query...,” but as forth above, there is simply no explicit query shown in Figure 6B, despite arguments in the non-final Office Action to the contrary.

Further, the non-final Office Action (page 3) acknowledges that *Bruck* “does not explicitly disclose wherein[sic] the driving the display device with a second video output signal.” However, the non-final Office Action (page 3) alleges that *ATI* “discloses a similar method for adjusting display characteristics of a display device, including driving a display device with a

second video output signal (VGA, page 87, from ATI video card)." Page 87 of ATI does show an S-video out and a comp. video out. Although unclear from the rejection, assuming *arguendo* the intent of the rejection is to treat these two outputs as corresponding to different video outputs (e.g., first and second video outputs), Applicants respectfully submit that the combination is not obvious. For instance, the non-final Office Action (pages 3-4, underlining in the original) alleges in part the following:

...Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of *Bruck* with *ATI* so as to enable a second modified video output signal. One would have been motivated to provide signal modification outside of TV, so as to enable users can[sic] adjust display settings regardless of display device being used.

Applicants respectfully disagree. As previously argued, *Bruck* does not support the use of a second video output signal. Rather, control (e.g., of brightness) in *Bruck* appears to be internal to the television, and not by virtue of a different signal provided by a driving device. Assuming *arguendo* a viewer can switch the output port on page 87 of *ATI* and then a second video output is presented, it is unreasonable and certainly not obvious to incorporate such an alleged teaching to *Bruck*. The disappearance of the screen is inferred from instructions on the screen of Figure 6B of *Bruck* as a possible consequence to under-adjusting brightness levels. Using the rationale reproduced above, the user would be expected to simply ignore the stated instructions and unhook the connection, and hook up to another connection to repeat the instructions before achieving a desirable display. In other words, follow the instructions to make the display disappear and then unhook and rehook to another connection and repeat the same futile process. This is simply nonsensical. For at least this separate reason, Applicants respectfully submit that a *prima facie* case of obviousness has not been established, and respectfully request that the rejection be withdrawn on these separate grounds.

Because independent claim 1 is allowable over *Bruck* in view of *ATI*, dependent claims 2-3, 5, 8-12, 14-17, 20-24, 53, and 59 (previously claim 7) are allowable as a matter of law for at least

the reason that the dependent claims 5, 8-12, 14-17, 20-24, 53, and 59 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Independent Claim 26

Claim 26 recites (with emphasis added):

26. A system for determining the characteristics of a display device, said system comprising:
a memory with logic; and
a processor configured with the logic to drive a display device with a first video output signal formatted according to a first video interface specification, wherein the processor is further configured with the logic to, ***responsive to driving the display device, explicitly query a user***, the query configured to solicit a response from the user that corresponds to whether the user can presently observe an object rendered on the display device, the object included in the first video output signal, wherein the processor is further configured with the logic to determine a characteristic of the display device responsive to determining that the user can presently observe the object, the determination based on user input corresponding to the solicited response, ***wherein the processor is further configured with the logic to effect driving the display device with a second video output signal and repeating the explicit query to the user responsive to determining that the user cannot presently observe the object***.

Applicants respectfully submit that independent claim 26 is allowable over *Bruck* in view of *ATI* for at least the reason that *Bruck* fails to disclose, teach, or suggest at least the above emphasized claim features. The non-final Office action (page 3) alleges that an “explicit query” is found in Figure 6B of *Bruck*. Applicants respectfully disagree. Figure 6B of *Bruck* is reproduced above in association with claim 1. Clearly from the reproduction of Figure 6B (*Bruck*) above, there is no explicit query. *ATI* likewise does not disclose such a query as claimed. Accordingly, Applicants respectfully submit that *Bruck* in view of *ATI* fails to disclose, teach, or suggest the corresponding claimed feature emphasized above and respectfully request that the rejection be withdrawn.

Further, the claimed features of ***driving the display device with a second video output signal and repeating the query to the user responsive to determining that the user***

cannot presently observe the information are also not met by *Bruck* in view of *ATI*. For instance, the non-final Office Action (page 3) alleges that *Bruck* teaches “repeating the explicit query...,” but as forth above, there is simply no explicit query shown in Figure 6B, despite arguments in the non-final Office Action to the contrary.

Further, the non-final Office Action (page 3) acknowledges that *Bruck* “does not explicitly disclose wherein[sic] the driving the display device with a second video output signal.” However, the non-final Office Action (page 3) alleges that *ATI* “discloses a similar method for adjusting display characteristics of a display device, including driving a display device with a second video output signal (VGA, page 87, from *ATI* video card).” Page 87 of *ATI* does show an S-video out and a comp. video out. Although unclear from the rejection, assuming *arguendo* the intent of the rejection is to treat these two outputs as corresponding to different video outputs (e.g., first and second video outputs), Applicants respectfully submit that the combination is not obvious. For instance, the non-final Office Action (pages 3-4, underlining in the original) alleges in part the following:

...Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of *Bruck* with *ATI* so as to enable a second modified video output signal. One would have been motivated to provide signal modification outside of TV, so as to enable users can[sic] adjust display settings regardless of display device being used.

Applicants respectfully disagree. As previously argued, *Bruck* does not support the use of a second video output signal. Rather, control (e.g., of brightness) in *Bruck* appears to be internal to the television, and not by virtue of a different signal provided by a driving device. Assuming *arguendo* a viewer can switch the output port on page 87 of *ATI* and then a second video output is presented, it is unreasonable and certainly not obvious to incorporate such an alleged teaching to *Bruck*. The disappearance of the screen is inferred from instructions on the screen of Figure 6B of *Bruck* as a possible consequence to under-adjusting brightness levels. Using the rationale reproduced above, the user would be expected to simply ignore the stated

instructions and unhook the connection, and hook up to another connection to repeat the instructions before achieving a desirable display. In other words, follow the instructions to make the display disappear and then unhook and rehook to another connection and repeat the same futile process. This is simply nonsensical. For at least this separate reason, Applicants respectfully submit that a *prima facie* case of obviousness has not been established, and respectfully request that the rejection be withdrawn on these separate grounds.

Because independent claim 26 is allowable over *Bruck*, dependent claims 27-28, 30-37, 39-40, 43-48, and 54 are allowable as a matter of law.

Independent Claim 55

Claim 55 recites (with emphasis added):

55. A method, comprising:

outputting a first television signal to a display device, the first television signal comprising one or more pictures, wherein at least one picture has a parameter configured with a first value;

outputting a second television signal to the display device, the second television signal comprising one or more pictures, at least one picture having the parameter configured with a second value, the difference in parameter values resulting in a difference in visual appearance of the at least one picture corresponding to each of the first and second television signals; and

soliciting one or more user inputs from a user, the solicitation intended to determine a user preference for the at least one picture corresponding to the first television signal or the second television signal; and

determining a display device characteristic based on the solicited user inputs.

Applicants respectfully submit that independent claim 55 is allowable over *Bruck* in view of *ATI* for at least the reason that *Bruck* fails to disclose, teach, or suggest at least the above emphasized claim features. The non-final Office Action evaluates independent claims 1, 26, and 55 as one, though the features of claim 55 are clearly different than, for instance, those expressed in claim 1. For instance, the non-final Office Action (page 3) appears to equate the claim 1 feature of a first video output signal to the mid-range level of brightness (and makes note of element 26 of Figure 1C of *Bruck* for the first video interface specification). Assuming *arguendo* the output of the

vide encoder 26 to be the first video output signal of claim 1, there is no evidence in *Bruck* that the presentation of the “A” in Figure 6B of *Bruck* is a **television signal** picture. Page 19 of the non-final Office Action alleges that the output from unit 10 is of video 6. Even assuming *arguendo* that to be the case, that does not provide evidence that element 92 in Figure 6B is a picture from a television signal. For instance, column 5, lines 25-34 suggest that the box 10 provides email functionality. How is email viewed? Is email a television signal? *ATI* does not remedy these deficiencies. For instance, *ATI* is introduced apparently to support a second video signal in claim 1. Despite the fact that a second video signal is not necessarily a second television signal, as set forth above, the introduction of the alleged teachings of *ATI* is not obvious. For at least these reasons, Applicants respectfully submit that claim 55 is allowable over *Bruck* in view of *ATI*, and respectfully request that the rejection be withdrawn.

Because independent claim 55 is allowable over *Bruck*, dependent claims 56 and 58 are allowable as a matter of law.

In addition, Applicants respectfully submit that at least claim 58 is allowable on separate grounds. The non-final Office Action (page 12) alleges that *ATI* discloses “storing the display device characteristic is stored in memory (page 5).” Applicants have reviewed page 5, and see no evidence of this claimed feature. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn.

2. Claims 4 and 29 - 35 U.S.C. 103(a) - *Bruck* in view of *ATI* and in further view of *Krane*.

The addition of *Krane* does not cure the deficiencies of *Bruck* and *ATI* discussed above in connection with independent claims 1 and 26. For at least the reason that independent claims 1 and 26 are allowable over *Bruck* in view of *ATI* in further view of *Krane*, Applicants respectfully

submit that claims 4 and 29 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claims 4 and 29 be withdrawn.

In addition, the combination of *Bruck* in view of *ATI* and *Krane* is not obvious. For instance, the techniques of *Bruck* may be construed as making it possible for users with visual impairments to be accommodated, thus rendering the system of *Krane* obsolete. Hence, it is not obvious to combine *Bruck* in view of *ATI* and *Krane*, and for at least this additional reason, Applicants respectfully request that the rejection be withdrawn.

3. Claims 13, 18, 19 and 38 - 35 U.S.C. 103(a) – *Bruck* in view of *ATI*, in further view of *Elswick* and in further view of *May*.

The addition of *Elswick* and *May* do not cure the deficiencies of *Bruck* in view of *ATI* discussed above in connection with independent claims 1 and 26. For at least the reason that independent claims 1 and 26 are allowable over *Bruck* in view of *ATI*, *Elswick* and *May*, Applicants respectfully submit that claims 13, 18, 19, and 38 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claims 13, 18, 19, and 38 be withdrawn.

4. Claim 57 - 35 U.S.C. 103(a) – *Bruck* in view of *ATI* and in further view of *Elswick*.

The addition of *Elswick* does not cure the deficiencies of *Bruck* in view of *ATI* discussed above in connection with independent claim 55. For at least the reason that independent claim 55 is allowable over *Bruck* in view of *ATI* and *Elswick*, Applicants respectfully submit that claim 57 is allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claim 57 be withdrawn.

5. Claim 25 - 35 U.S.C. 103(a) – ATI in further view of Rzeszewski et al.

Independent Claim 25

Claim 25 recites (with emphasis added):

25. A method for determining the characteristics of a display device coupled to a network client device, said method comprising the steps of:

cycling through a plurality of video formats, each part of the cycle including a predetermined time duration, the cycling occurring without an interruption corresponding to physical manipulation by a user of connections between the display device and the network client device;

outputting a video signal including pictures for each part of the cycle, wherein the pictures include at least one of graphics data and video data;

processing the pictures for each video format for output to the display device;

setting parameters of a video output port according to each video format;

soliciting a user response from the user for each video format, wherein the step of soliciting includes the step of presenting at least one of visible instructions and audible instructions to the user;

determining at least one characteristic of the display device based on the user response, wherein the characteristic includes at least one of type of device, picture size, frame rate, scan format, color format, colorimetry, picture width-to-height aspect ratio, width-to-height aspect ratio of pixels, capability of providing ancillary data, manner of providing the ancillary data; and

driving the display device according to at least one parameter of a received TV signal processed by the network client device according to the determined characteristic to present images on a display screen of the display device.

Applicants respectfully submit that the amendments to independent claim 25 render the rejection moot. Further, Applicants respectfully submit that independent claim 25 is allowable over ATI in view of Rzeszewski for at least the reason that ATI in view of Rzeszewski fails to disclose, teach, or suggest at least the above emphasized claim features. Assuming plural formats in ATI as alleged in page 18 of the non-final Office Action, Applicants note that it is not obvious to change formats as claimed, and indeed, to do so as claimed in ATI would fundamentally alter the principle of operation of ATI, which indicates non-obviousness of the claim.

Further, Applicants respectfully submit that the substitution of circuits (to cycle through) and formats is not obvious. The circuits of *Rzeszewski* pertain to noise compensation, which is entirely different than what is disclosed in *ATI*. The systems standing alone do not act the same as they do singly, but rather, the circuits of *Rzeszewski* require fundamental changes to handle video/graphics display processing and change of formats. In other words, despite allegations to the contrary, it is not obvious to combine *ATI* and *Rzeszewski*, nor is there any predictability of success in combining the teachings of these two disparate systems. For at least these reasons, Applicants respectfully request that the rejection be withdrawn and claim 25 allowed.

6. Claim 41 - 35 U.S.C. 103(a) – *Bruck* in view of *ATI* and in further view of *Rzeszewski*.

As set forth above, claim 26 is allowable over *Bruck* in view of *ATI*. *Rzeszewski* does not remedy the above-described deficiencies. For at least the reason that *Bruck* in view of *ATI* and further in view of *Rzeszewski* fails to disclose, teach, or suggest at least the above-emphasized features of claim 26, dependent claim 41 is allowable as a matter of law. Accordingly, Applicants respectfully request that the rejection be withdrawn and claim 41 allowed.

III. Canceled Claim

As identified above, claim 7 has been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicants have included the subject matter of now canceled claim in claim 59.

IV. New Claim

As identified above, claim 59 (replacing claim 7) has been added into the application through this response, and believe claim 59 to be allowable for at least the reasons claim 1 is as set forth above.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

Date: May 21, 2010

By: /David Rodack/
David Rodack, Reg. No. 47,034

Merchant & Gould
P.O. Box 2903
Minneapolis, Minnesota 55402-9946
Telephone: 404.954.5049

